

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

v.

ROCKAUTO, LLC,

Defendant.

ORDER

18-cv-797-jdp

In accordance with the court's pretrial conference order, Dkt. 133, plaintiff Equal Employment Opportunity Commission submitted a revised exhibit list, including a revised set of proposed comparators. Dkt. 135. Defendant RockAuto, LLC objected to several of the comparators. Dkt. 140. On June 7, the court sustained RockAuto's objections to Leif Engebretsen, Henry Smith, Hope Smith, Mohamed Sawan, and Nicholas Bartling. The court overruled RockAuto's objections to Alison Widner, Philip Davidar, John Forest Johanneson, Cameron Schade, Dan DeLongchamp, and Devante Johnson.

The court reserved a ruling on Emily "Mimi" Mei. After consideration, the court will allow EEOC to introduce the email from Nate Rehberg describing Mei as "young in her career." Ex. 11, at 14. Consistent with the court's prior ruling on EEOC's motion in limine No. 5, Dkt. 110, at 4, the email is not a stray remark, because Rehberg was involved in the hiring process and his email was among the information considered in the hiring process. For purposes of trial, Mei is no longer a comparator because she did not receive a discretionary pass. But EEOC has consistently proffered Mei as a comparator, so there is no unfair surprise to

RockAuto in introducing the Rehberg email. For completeness, the other documents reflecting the assessment of Mei during the hiring process are also admissible.

Entered June 8, 2021.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge